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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,953	12/12/2003	Larry D. Brown	HENTE-088A	1455
7663	7590	07/06/2005	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER			LE, TAN	
75 ENTERPRISE, SUITE 250				
ALISO VIEJO, CA 92656			ART UNIT	PAPER NUMBER

3632

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/734,953	Applicant(s) BROWN ET AL.	
	Examiner Tan Le	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) 10-14, 21, 23, 34-50, 65 and 66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 15, 17-20, 22, 25-33 and 51-64 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 24 is/are objected to.
- 8) ☐ Claim(s) 1-66 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Me

DETAILED ACTION

1. This is the first office action for Application serial number 10/734,953. This application contains 66 claims numbered 1-66.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-36 and 51-66, drawn to a clamp assembly, classified in class 248, subclass 070.
 - II. Claims 37-50, drawn to a method of use, classified in class 29, subclass 428.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process such as placing the rod or the hose between the ratchet arms and first and second V-shaped notches either before or after the clamping block is fastened to the ratchet arms.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. This application contains claims directed to the following patentably distinct species of the claimed invention:

The species of Figs. 1-17 and 25

The species of Figures 18-24

The species of Figs. 26-38

The species of Figs. 39-56

The species of Figs. 57-73

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 25 appears to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Mr. Lowell Anderson on May 24, 2005, a provisional election was made with traverse to prosecute the invention of Group I, the species of Figures 1-17 and 25, claims 1-9, 15-33 and 51-64. Affirmation of this election must be made by applicant in replying to this Office action.

Currently claims 1-9, 15-20, 22, 24-33 and 51-64 are readable to the elected species.

6. Claims 10-14, 21, 23, 34-50 and 65-66 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention/species.

An examination follows:

Information Disclosure Statement

7. The information disclosure statement (IDS) submitted on 5/10/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 3, 5-6, 17-20, 22, 25-33 and 51-62 are rejected under 35

U.S.C. 102(b) as being anticipated by US Patent No. 6,126,122 to Ismert.

As to claims 1 and 2, Ismert teaches a clamp base 11 having a pair of ratchet arms 41, 42 extending outwardly from the base, each arm having a plurality of ratchet teeth, the clamp base having a first support including at least two inclined surfaces 22 forming a generally V-shaped; a clamping block (31 having openings (32, 42, 43) for the ratchet arms, the clamping block having a pawl located in each opening with at least one tooth; the clamping block having a second support including at least two inclined surfaces 22 forming a generally V-shaped notches that opens toward the clamp base; at least one flexible cap forming a curved surface in the notch (52) (Fig. 1) and extending over the notches and being interposed between the inclined surface.

As to claim 3, Ismert also teaches a cap (52) on each of the clamp base and clamping block (see col. 4, line 67 and Col. 5, lines 4).

As to claims 5-6, Ismert further teaches a first hole extending through the clamp base and located between the inclined surfaces of the base; and the cap can be removable.

As to claims 17-19, at least one resilient leg (72) and a flange (64, 54) each extending from the base (Fig. 5); the flange and the arm being spaced apart at a distance sufficient to allow the leg to resiliently engage the support, wherein the flange is

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at right angles to the base and extending toward the arm with at least one hole in the flange (61, 56) (Fig. 5).

As to claims 20, the pawl also formed by two adjacent slots in a wall of the clamping block which wall defines a portion of the opening in which the pawl is located, the slots extending to an opening onto a distal edge of the clamping block opposite a base of the pawl.

As to claim 22, since the elongate member is not a positive part of the claim, the claim is therefore also read on Ismert.

Claim 25, 26, 27, 28, 29, 30, 31-33 recited limitations similar to those recited in claims 1-3, 5-6, 17-20 and 22 are therefore also read on Ismert.

Claims 51-62 recited limitations which are narrower but they are still similar to those recited in claims 1-3, 5-6, 17-20 and 22 are therefore also read on Ismert, wherein the flange as recited in claims 51 and 55 extends outwardly and opposite the arms which still reads on Ismert (see 64, 54), claim 52 reads on element 72 (Fig. 5).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 15 and 63-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ismert.

Ismert does not specifically express the hardness of the material of the cap to be 40-60 Shore A. However, it would have been considered an obvious matter of design choice to have provided the cap with the hardness degree of about 40-60 Shore A since the hardness of the material is depending on the hardness of the material from which the clamp is constructed and depending on how much to actually restrain the pipe when the ratchet arms are in place. These are considered to be unlimited. Therefore it considered as an obvious matter of design choice.

As to claims 15 and 63-64, Ismert also does not teach a rib on at least one ratchet arm extending substantial length of the arm to strengthen the arm. To have added a rib on the ratchet arm extending substantially the length of the arm to strengthen the arm of Ismert would have been considered obvious and well within the level of ordinary skill in the art since such structures are conventional alternative structures used in the same intended purpose, thereby providing structure as claimed.

Allowable Subject Matter

10. Claims 7-9, 16 and 24 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,446,915 to Ismert

6,464,181 to Sakakura

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6,463,631 to Noda 4,244,083 to Aremka et al.

3,147,754 to Koessler 4,252,466 to Berti et al.

US 2005/0006535 to Brown et al.

The above patents disclose various types of ratchet arm pipe clamps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818.

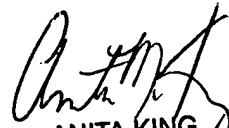
The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le
6/13/05



ANITA KING
PRIMARY EXAMINER